

NVB 105-3(3/15)

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

\* \* \* \* \*

|                    |   |                               |
|--------------------|---|-------------------------------|
| In re: SONIA LOPEZ | ) | BK 15-14086-MKN               |
|                    | ) |                               |
|                    | ) | CHAPTER 13                    |
|                    | ) |                               |
| Debtor(s).         | ) | ORDER ON DEBTOR'S VERIFIED EX |
|                    | ) | PARTE MOTION FOR REFERRAL TO  |
|                    | ) | MORTGAGE MODIFICATION         |
|                    | ) | MEDIATION                     |

This matter came before the Court upon the Debtor's Verified Ex Parte Motion for Referral to Mortgage Modification Mediation ("Ex Parte Motion") filed on 10/9/2015

It is **ORDERED** as follows:

1. The Ex Parte Motion is granted. The Lender may seek reconsideration of this Order by filing a written motion on or before 14 days after entry of the Order.
- If a timely motion for reconsideration is filed, the moving party will promptly

1 schedule a hearing. In the event a motion for reconsideration is timely filed, all  
2 deadlines set forth in this Order shall be suspended pending resolution of the  
3 motion, but all other provisions shall remain in effect;

4 2. The Debtor and Lender are required to participate in Mortgage Modification  
5 Mediation (“MMM”) in good faith and may be subject to possible sanctions by  
6 the Court for violation of this requirement, including vacating this order. MMM  
7 shall be concluded not later than 150 days from the date of the Order, unless  
8 extended by written consent on the approved Mortgage Modification Mediation  
9 Portal (“MMM Portal”), by stipulation of the parties or by court order;  
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11  
12 3. All communications and information exchanged during MMM are privileged and  
13 confidential and shall be inadmissible in any subsequent proceeding as provided  
14 by Rule 408 of the Federal Rules of Evidence, except in circumstances of a  
15 motion for failure to participate in good faith under the MMM program and  
16 procedures and/or subsequent mediation negotiation under this Chapter and/or the  
17 State of Nevada Foreclosure Mediation Program;  
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20 4. All written communication between the parties regarding the mediation must be  
21 sent through the approved MMM Portal only, unless otherwise ordered by the  
22 Court. Any litigated matters incidental to the mediation shall be considered as  
23 separate matters and not subject to the portal communication requirement;  
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25 5. Within seven days after entry of this Order, the Lender and, if applicable,  
26 Lender’s counsel shall register with the MMM Portal, unless already registered,  
27 and provide to the MMM Portal vender any forms or documents which Lender  
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1 may require to initiate a review under the MMM. The MMM Portal vendor shall  
2 post any such forms or documents to the Lender's profile on the MMM Portal. If  
3 the Lender fails to so register, the Debtor may file a motion with the Court  
4 seeking sanctions against the Lender for Lender's failure to register;  
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6 6. Lender's counsel or representative shall have the authority (within the investor's  
7 guidelines) to settle and will attend and continuously participate in all MMM  
8 conferences in this case;  
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10 7. Debtor shall, within seven days after the filing of Debtor's Notice of Selection of  
11 Mortgage Modification Mediator (or Notice of Clerk's Designation of Mortgage  
12 Modification Mediator), or after confirming that the Lender is registered on the  
13 MMM Portal, whichever occurs later, remit to the MMM Portal the required non-  
14 refundable MMM Portal submission fee, and upload to the MMM Portal the  
15 following (collectively, the "Completed Package"):  
16

- 17 (a) Debtor's loan modification package (prepared using the Document  
18 Preparation Software);
- 19 (b) a copy of this Order; and
- 20 (c) any additional lender-specific information identified by Lender on  
21 the MMM Portal.  
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24 8. The Lender shall, within seven days after Debtor's delivery of the "Completed  
25 Package," acknowledge receipt of Debtor's information on the MMM Portal and  
26 designate its single point of contact and outside legal counsel (if any);  
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1           9.     In the event the Lender requires additional or missing information to consider the  
2           Debtor's requested mortgage modification options as specified in the Ex Parte  
3           Motion, the Lender shall so notify Debtor through the MMM Portal within seven  
4           days of Debtor's submission ("Notice"). The Debtor shall provide all additional  
5           documents through the MMM Portal within seven days of the Notice;

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7           10.    The Lender shall timely underwrite the loan modification request;

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9           11.    If the Lender transfers the loan, the Lender must provide a copy of the Order to  
10          the new holder of the loan ("Successor Lender"), and the Successor Lender will  
11          be obligated to comply with all terms of this Order;

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13          12.    **PROCESS FOR SELECTION OF MEDIATOR:**

14           (a)     The parties shall have 14 days from the date of this Order to select a  
15           mediator. If the parties agree on the selection of a mediator, the Debtor  
16           shall file the MMM Local Form "Debtor's Notice of Selection of  
17           Mortgage Modification Mediator" (Check Box 1 and insert mediator name  
18           and contact information), serve a copy of the notice on all required parties,  
19           and file a Certificate of Service pursuant to Local Rule 2002;

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21  
22           (b)     If the Lender fails to communicate with the Debtor within the 14 day  
23           period established for the mediator selection process, the Debtor shall,  
24           within seven days, independently select a mediator and file the "Debtor's  
25           Notice of Selection of Mortgage Modification Mediator" (Check Box 2  
26           and insert mediator name and contact information), serve a copy of the  
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1 notice on all required parties, and file a Certificate of Service pursuant to  
2 Local Rule 2002. In this instance, it shall be deemed that the Lender  
3 has waived the right to challenge Debtor's selection of a Mediator;  
4

5 (c) If the parties attempt to reach agreement on the selection of a Mediator,  
6 but fail to do so, the Debtor shall file the "Debtor's Notice of Selection of  
7 Mortgage Modification Mediator" (Check Box 3 indicating an impasse),  
8 serve a copy of the notice on all required parties, and file a Certificate of  
9 Service pursuant to Local Rule 2002. The clerk shall then randomly  
10 select a mediator from the clerk's Mediation Register pursuant to the  
11 MMM Program Procedures, without the necessity of a hearing. The clerk  
12 shall serve notice of the mediator selection on the Debtor using the MMM  
13 Local Form "Notice of Clerk's Designation of Mortgage Modification  
14 Mediator." Any challenge to the clerk's designation of mediator shall be  
15 resolved in accordance with the MMM Program Procedures.  
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19 13. Debtor shall assign the mediator as the mediator in this case on the MMM Portal  
20 as part of Debtor's submission on the MMM Portal as provided in Paragraph 7  
21 above;  
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23 14. The mediator shall be:

24 (a) governed by the subject to the Model Standards of Conduct for Mediators  
25 as adopted by the American Arbitration Association, American Bar  
26 Association, and Association of Conflict Resolution. Mediators shall have  
27 judicial immunity in the same manner and to the same extent as a judge;  
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1 (b) subject to paragraph 15 below, be compensated in the amount required  
2 pursuant to the MMM Procedures for preparation for MMM, execution of  
3 required documents, facilitation of document and information exchange  
4 between the parties, and participation in no more than two one-hour  
5 MMM conferences;  
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7  
8 (c) compensated at the rate set by the U.S. Bankruptcy Court for the District  
9 of Nevada as adopted by this court by Administrative Order 2014-08, or at  
10 such rate as may be agreed to in writing by the parties and the mediator  
11 selected by the parties for any MMM conferences that extend beyond the  
12 initial two one-hour conferences;  
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14  
15 15. The mediator's fee shall be paid equally by the parties as follows:

16 (a) The Debtor shall pay the non-refundable fee pursuant to the MMM  
17 Procedures directly to the mediator within seven days designation of the  
18 mediator;  
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20 (b) The Lender shall pay the non-refundable fee pursuant to the MMM  
21 Procedures directly to the mediator within seven days after designation of  
22 the mediator; and  
23

24 (c) The mediator's fee for MMM conferences that extend beyond two, one-  
25 hour conferences, shall be paid equally by the parties and is due and  
26 payable at the beginning of each successive MMM conference in  
27 accordance with the program procedures.  
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1           16.    The mediator shall log in to the MMM Portal within seven days after designation  
2                   and use the MMM Portal to facilitate any additional exchange of information or  
3                   documentation between Debtor and Lender in an effort to perfect the documents  
4                   needed for Lender to complete its analysis of Debtor's mortgage modification  
5                   mitigation options;

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8           17.    If the mediator either fails to timely register or log in to the MMM Portal to begin  
9                   to facilitate the MMM process, any party to the mediation may file a motion  
10                  requesting that the mediator be removed from this case and, if applicable, be  
11                  removed from the clerk's Mediation Register;

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13           18.    **MEDIATION CONFERENCE:**

14                   (a)    The mediator shall schedule the initial MMM conference no later than  
15                          seven days after determining that the Lender has received and reviewed all  
16                          requested information. In the event the mediator cannot determine that the  
17                          Lender has received all the requested information, the mediator shall  
18                          schedule the initial MMM conference within 90 days of this Order. The  
19                          initial MMM conference shall not exceed one hour. The mediator shall  
20                          report the scheduling of all MMM conferences on the MMM Portal;

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23                   (b)    If the Debtor is represented by an attorney, the Lender and Lender's  
24                          representative may participate in the MMM conference by telephone;

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26                   (c)    If the Debtor is represented by an attorney, the Debtor and any co-  
27                          obligors/co-borrowers or other third party may participate in the MMM  
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1 conference by telephone provided they are physically present with  
2 Debtor's attorney and present identification to Debtor's attorney during all  
3 MMM conferences;

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5 (d) If the Debtor is not represented by an attorney, the debtor and any co-  
6 borrower shall be physically present with the mediator at the mediator's  
7 selected location and present identification to the mediator for all MMM  
8 conferences;

9  
10 (e) Debtor shall provide a foreign language interpreter, if necessary, at the  
11 Debtor's own expense; and

12  
13 (f) All parties attending the MMM conference must be ready, willing and able  
14 to sign a binding settlement agreement at the MMM conference and have  
15 the ability to scan, send and receive documents by facsimile, email or  
16 other electronic means at the time of the MMM conference.  
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19 19. In the event the parties are unable to reach an agreement and require an additional  
20 MMM conference, the mediator shall schedule a final MMM conference no later  
21 than 30 days thereafter. The final MMM conference shall not exceed one hour;  
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23 20. In the event the parties reach a final resolution or, if no agreement has been  
24 reached, the mediator shall report the results of the MMM on the MMM Portal  
25 not later than seven days after the conclusion of the final MMM conference. The  
26 mediator shall also complete and file with the Court, via CM/ECF, the MMM  
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Local Form “Final Report of Mortgage Modification Mediator,” within two business days following entry of the final report data on the MMM Portal;

21. If an agreement has been reached, Debtor shall file the MMM Local Form “Ex Parte Motion to Approve Mortgage Modification Mediation Agreement with Lender,” no later than 14 days following the filing of the Final Report and upload the MMM Local Form “Order on Motion to Approve Mortgage Modification Mediation Agreement” to the Court’s CM/ECF. The parties shall also seek any necessary Court approval and formalize any required legal documents in a timely fashion thereafter;
22. The automatic stay is modified to the extent necessary to facilitate MMM pursuant to this Order;
23. Any of the deadlines imposed by this Order may be extended by order of the Court;
24. If any parties or counsel fail to comply with the terms of this Order, the Court will consider a motion to vacate the Order and may also impose sanctions; and
25. The Debtor shall serve a copy of this Order on all parties to the mediation, immediately upon receipt. Service shall be by regular U.S. Mail, electronic service, or email, if the party’s email address is known.

**IT IS SO ORDERED.**

Submitted by:

/S/ Seth Ballstatedt, Esq.  
Attorney for Debtor(s)

Dated: 10/9/2015

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